



respondent-Bank initiated recruitment process on the post of Probationary Officer in JMGS-I by way of issuing an advertisement dated 07.02.2012. Since the petitioner was fulfilling the eligibility criteria mentioned in the advertisement, therefore, he submitted his application pursuant to the advertisement. After undergoing the process, he was selected and consequently, an appointment letter dated 18.02.2013 was issued by the respondent-Bank, whereby the petitioner was appointed on provisional basis subject to the conditions mentioned in the appointment letter.

3. As per instructions mentioned in the appointment letter, the petitioner reported at the Regional Training Center of respondent-Bank on 02.04.2013, where he was supplied one declaration form to be filled in by the petitioner.

4. It has been averred by the petitioner that in the declaration form, in addition to other informations, the petitioner was also required to disclose about criminal antecedents. The petitioner while filling up the form fairly disclosed that the criminal cases were pending against him.

5. On such declaration made by the petitioner, vide letter dated 04.04.2013, the respondent-Bank communicated the petitioner that on account of pendency of criminal case, Bank has decided not to allow the petitioner to join.

6. The petitioner has stated that there were two criminal cases, in which he was facing criminal trial. In one of the cases, he was being tried under Sections 419/120, 420/120B and 120B IPC read with Sections 65, 66 and 72 of the IT Act. Whereas another case

was lodged against him for an offence under Sections 147, 341 and 323 IPC. Since at the relevant time, no final verdict was given by the competent criminal court, therefore, the decision taken by the Bank declining joining to the petitioner was based upon fake assumption and against fundamental Rule of criminal jurisprudence that a person is innocent till he is held guilty by the criminal Court. Under the circumstances, the petitioner preferred S.B. Civil Writ Petition No. 7056/2013 before this Court assailing communication letter dated 04.04.2013.

7. It has been contended by the petitioner that in the above Writ Petition No. 7056/2013, an interim order dated 10.05.2013 was passed by the Court to the extent of directing the respondents to keep one post vacant.

8. It has further been stated by the petitioner that during the pendency of aforementioned writ petition, he was acquitted in both the criminal cases.

9. Under these circumstances, this Court disposed of the earlier petition No. 7056/2013 filed by the petitioner vide order dated 01.07.2020, by giving following observations:

*"However, as subsequently the petitioner has been acquitted in both the cases, it is the opinion of this Court that the matter is required to be re-examined at the level of the Bank itself and they must consider the candidature of the petitioner independently of the earlier decision taken by them and convey to the petitioner on 4th April, 2013.*

*6. In view of the above, it is directed that the petitioner shall now submit a detailed representation placing on record the judgments passed in the criminal cases and the concerned competent authority shall examine his case for joining on the post as he already stood selected independent to the earlier decision and one post is lying vacant. It is expected that decision in this regard shall be*

*taken expeditiously and conveyed to the petitioner within a period of one month henceforth.7. With the said observations and directions, the writ petition is disposed of. It goes without saying that if the petitioner has any grievance left, he can approach this Court afresh."*

10. In compliance of order dated 01.07.2020, the petitioner filed representation before the respondent-Bank highlighting therein that since the only reason for denying him appointment was pendency of criminal cases against him, therefore, in view of the fact that the petitioner has been acquitted in the said criminal cases after recording evidence and holding complete trial, therefore, in the light of observations made by this Court vide order dated 01.07.2020, the respondents were requested to reconsider the decision of declining appointment to the petitioner. It was mentioned in the representation that in both the cases, the petitioner was falsely implicated in malicious manner. The allegations levelled against him were totally frivolous and devoid of any truth. The prosecution utterly failed to prove the allegations before the competent Court and the baseless evidence led by the petitioner was not at all reliable, hence, under these circumstances, finding no criminality in the conduct of the petitioner, he has been acquitted from the criminal charges. By mentioning all such facts, the petitioner requested the respondents to permit the petitioner to join on the post of Probationary Officer.

11. Grievance of the petitioner is that despite there being clear-cut verdict of the competent criminal Court in his favour and inspite of the fact that apart from the alleged allegations levelled in the said criminal cases, there was no piece of evidence, putting

any suspicion whatsoever regarding character of the petitioner, yet without giving any cogent or rational reasoning, in quite mechanical manner, merely by giving reference of vague recruitment policy, the representation submitted by the petitioner has been rejected by the respondent-Bank vide order dated 24.07.2020; resultantly, the petitioner has been deprived of appointment, despite being meritorious person, which is causing grave prejudice and miscarriage of justice to the petitioner.

12. In the instant writ petition, while issuing notices on 23.02.2021, this Court again passed interim order, directing the respondent-Bank to keep one post vacant for the petitioner.

13. After receiving notices of the writ petition, the respondent-Bank filed reply to the writ petition, categorically denying the averments made in the writ petition. It has been submitted in reply to the writ petition that nature of job of the Probationary Officer in Bank essentially requires integrity and honesty, hence the respondent-Bank has framed a recruitment policy, which mandates that only the persons having unblemished character and spotless antecedents can be appointed on such post.

14. It has further been submitted in reply to the writ petition that admittedly the petitioner was charged with criminal allegations in two different cases involving element of moral turpitude. Although, the petitioner has been acquitted in both the criminal cases, yet such acquittal is merely on the basis of giving benefit of doubt to the accused petitioner and such acquittal by no stretch of imagination would fall within the ambit of 'honourable acquittal'. Such judgments may although save the petitioner from

facing the rigour of punishment, yet are not conclusive proof of innocence of the petitioner. Therefore, looking to the consistent recruitment policy of the Bank and in larger public interest, the respondent-Bank has taken right decision not to appoint the petitioner on a post, which carries lot of responsibilities and trust of the public. The respondents, at the outset, prayed to dismiss the writ petition.

15. Learned Senior Counsel Shri Virendra Lodha assisted by Shri Gaurav Sharma, while arguing on behalf of the petitioner submits that the acquittal by the competent Criminal Court absolves the petitioner of all criminal culpability, and therefore, the denial of appointment is arbitrary and violative of his legitimate rights. Public employment is indeed a significant facet of one's right to livelihood under Article 21 of the Constitution. The Respondent-Bank cannot adopt an approach that is punitive in substance and discriminatory in effect, without adhering to the touchstones of fairness, reasonableness and proportionality.

16. Learned Senior Counsel also submits that in the present case, the acquittal was rendered after a full-fledged trial. The criminal Court, while extending benefit of doubt, did not record any adverse comment against the petitioner's credibility or conduct and apart from aforementioned criminal case, which ultimately culminated in acquittal, the respondent-Bank has not produced any other material demonstrating moral turpitude or habitual delinquency.

17. Learned Senior Counsel in order to press his submissions has relied upon the case of **Joginder Singh Vs. Union Territory of**

**Chandigarh, (2015) 2 SCC 377**, wherein the Hon'ble Supreme Court has held that denial of appointment solely on the basis of a criminal case, in which the accused has been acquitted, must satisfy the test of proportionality and must not rest on vague moralistic surmise. Following observations in the above case are relevant:-

*"19. Further, an acquittal of the appellant is an "honourable" acquittal in every sense and purpose. Therefore, the appellant should not be deprived from being appointed to the post, in the public employment, by declaring him as unsuitable to the post even though he was honourably acquitted in the criminal case registered against him.*

*20. Further, undisputedly, there has been no allegation of concealment of the fact that a criminal case was registered against him by the appellant. Thus, the appellant has honestly disclosed in his verification application submitted to the selection authority that there was a criminal case registered against him and that it ended in an acquittal on account of compromise between the parties involved in the criminal case, he cannot be denied an opportunity to qualify for any post including the post of a Constable."*

18. *Per contra*, Smt. Anita Aggarwal, learned counsel for the Respondent-Bank has vehemently argued that in the present case, the acquittal of the petitioner was not based on a clear exoneration but was granted due to lack of sufficient evidence, leading to benefit of doubt. Such an acquittal does not equate to a declaration of innocence and does not preclude the employer from assessing the suitability of the candidate for public employment.

19. Learned counsel for the respondents further adds that Public service in a Nationalized Bank, particularly where matters of trust of public at large is involved, necessitates a high degree of probity and trustworthiness as well as unimpeachable integrity. The employer, therefore, is justified in exercising discretion to ensure

that candidates appointed to such positions meet these stringent standards. Hence, the decision of the respondent authority to deny appointment to the petitioner cannot be termed arbitrary or unjustified. The writ petition, therefore, lacks merit and deserves to be dismissed.

20. In support of her contentions, Smt. Aggrawal, learned counsel for the respondents has placed reliance on the judgment delivered by the Hon'ble Supreme Court, in the case of **Avtar Singh Vs. Union of India, (2016) 8 SCC 471**, where the Apex court has elucidated as under:-

*"38.5. In a case where the employee has made declaration truthfully of a concluded criminal case, the employer still has the right to consider antecedents, and cannot be compelled to appoint the candidate."*

21. Further, learned counsel for the Respondents has cited the judgment of **State of M.P. Vs. Bhupendra Yadav, 2023 SCC OnLine SC 1181**, in which the Hon'ble Supreme Court has held that:

*"25. We are, therefore, of the opinion that mere acquittal of the respondent in the criminal case would not automatically entitle him to being declared fit for appointment to the subject post. The appellant-State Government has judiciously exercised its discretion after taking note of all the relevant factors relating to the antecedents of the respondent. In such a case, even one criminal case faced by the respondent in which he was ultimately acquitted, apparently on the basis of being extended benefit of doubt, can make him unsuitable for appointment to the post of a Constable."*

22. In continuation of above, learned counsel has also relied upon judgment of this court in the case of **State of Rajasthan**

**Vs. Dinesh Singh Bithu, 2021 SCC online Raj. 790**, where this court has observed as under:

*"11. As laid down by the Supreme Court, acquittal in a criminal case does not automatically entitle a candidate for appointment to the post and the employer has right to consider the antecedents of the candidate and decide whether he is suitable for appointment to the post There cannot be any quarrel with the proposition that the acquittal or discharge by itself cannot lead to presumption that a person has been honourably acquitted/completely exonerated. But, at the same time, if a person is acquitted of the charges for want of evidence, it would not necessarily lead to inference that the acquittal of the person by the Criminal Court of competent jurisdiction is not honourable."*

23. I have carefully heard rival submissions made at the bar and meticulously examined the record.

24. The pivotal question for determination is whether, in the facts and circumstances of the case, an acquittal based on benefit of doubt can be equated with an honorable acquittal, thereby entitling the petitioner to appointment in public service.

25. The petitioner, a candidate duly selected for appointment is aggrieved by the decision of the respondent-Bank in declining him appointment solely on the ground of his past involvement in a criminal case, notwithstanding his acquittal therein.

26. It is not in dispute that the petitioner stood acquitted in the said criminal cases. The acquittal, it is alleged by the respondents, was not "honourable" in the strict forensic sense, but rather one rendered on account of insufficiency of evidence, resulting in the grant of benefit of doubt.

27. The rejection of the petitioner's candidature is founded upon the assertion that the nature of acquittal casts a lingering cloud of

moral doubt and therefore dis-entitles him from public service, particularly at a position that demands high ethical standards and personal integrity.

28. At the outset, it is imperative to reiterate that an acquittal, of whatever complexion, is a formal pronouncement by a competent Court declaring the accused as not guilty. In **Avtar Singh Vs. Union of India, (2016) 8 SCC 471**, the Hon'ble Supreme Court has held that if a person is acquitted honourably, he may be considered suitable. However, even if the acquittal is based on benefit of doubt, there is no absolute prohibition and he may still be considered if no moral turpitude or serious suspicion remains. Each case must be considered on its own facts by the employer.

29. Before arriving at any conclusion, this court thinks it proper to examine and analyze the observations of criminal courts in their respective judgments:

30. In case no. 4323/2010, lodged against the petitioner under Sections 419/120, 420/120B and 120B IPC read with Sections 65, 66 and 72 of the IT Act, the competent Court after recording evidence, in it's judgment dated 27.06.2013 has observed as under:

*".....हस्तगत प्रकरण में एफ.एस.एल. रिपोर्ट पूर्णतया नैगेटिव हैं और उसमें ऐसी कोई इलेक्ट्रॉनिक सूचना नहीं है जो इन कम्प्यूटर एवं इलेक्ट्रॉनिक साधनों के माध्यम से मुल्जिमान को आरोपित अपराधों से संयोजित करती हो अभियोजन के मामले के अनुसार तीनों मुल्जिमान इन्हीं कम्प्यूटरों और कम्प्यूटरों में उपलब्ध इंटरनेट कनेक्शनों का उपयोग करके मधुबन साईबर कैंफे में एस.पी. ग्रामीण व डी.एस.पी. चौमू की फर्जी मूल आई.डी. के माध्यम से सूचनाएं प्राप्त करते थे इन्हीं के माध्यम से अभियोजन के मामले के अनुसार फर्जी मूल आई.डी. बनाई गई परंतु ऐसी कोई सूचना इन इलेक्ट्रॉनिक साधनों में नहीं पाई गई यह एफ.एस.एल. रिपोर्ट से साबित है इन सूचनाओं को कम्प्यूटर से मुल्जिमान द्वारा हटाया*

गया या किसी अन्य व्यक्ति द्वारा इस बाबत कोई तथ्य पत्रावली पर मौजूद नहीं हैं। एफ.एस.एल. रिपोर्ट नैगेटिव आने से इसी धारणा को बल मिलता है कि इन कम्प्यूटरों से कोई अपराध नहीं हुआ है इसके अलावा भी यह मामला परिवादी वोडाफोन कंपनी के अधिकृत अधिकारी के पास संरक्षित इलेक्ट्रॉनिक साधनों से साबित किया जा सकता था कि उससे कई बार सूचना मांगी गई और उसके द्वारा सूचनाएं उपलब्ध कराई गई परंतु अभियोजन पक्ष परिवादी के इलेक्ट्रॉनिक साधनों के माध्यम से भी प्रकरण को मुल्जिमान के विरुद्ध साबित करने का प्रयत्न करता प्रतीत नहीं होता। नक्शा निशादेही एवं अन्य तथ्यों को साबित करने के लिए अभियोजन द्वारा प्रस्तुत कराये गये सभी अत्यंत महत्वपूर्ण अभियोजन के स्वतंत्र साक्षी अभियोजन की कहानी का लेशमात्र भी समर्थन नहीं करते हैं जहां इलेक्ट्रॉनिक साधनों से अपराध किये जाने का आरोप सूचना तकनीकी अधिनियम, 2000 के अंतर्गत मुल्जिमान पर लगाया गया हो वहां एक भी ऐसा इलेक्ट्रॉनिक साक्ष्य पत्रावली में प्रस्तुत कर युक्तियुक्त संदेह से परे प्रमाणित नहीं किया गया है ऐसे में सूचना

प्रौद्योगिकी अधिनियम, 2000 के अंतर्गत लगाये गये आरोप धारा 65, 66 एवं 72 अभियोजन पक्ष साबित कर पाने में पूर्णतया सफल नहीं हो पाया है साथ ही अभियोजन की ओर से केवल मुल्जिम कृष्णगोपाल उक्त तथाकथित फर्जी फोन कॉल करने वाला व्यक्ति था, इस बाबत मोबाईल सिम के उपयोगकर्ता का सिम धारक कृष्णगोपाल होने बाबत प्रिंट आउट के अलावा और कोई दस्तावेज पत्रावली पर मौजूद नहीं है। अतः उपरोक्त विवेचन विश्लेषण के अनुसार हम इस निष्कर्ष पर पहुंचे हैं कि प्रतिरूपण द्वारा छल या छल करने के लिए अभियुक्तगण द्वारा एक आपराधिक षडयंत्र का निर्माण करके उस षडयंत्र के अनुसरण में मुल्जिमान द्वारा छल एवं प्रतिरूपण द्वारा छल किया गया हो यह तथ्य भी युक्तियुक्त संदेह से परे साबित कर पाने में अभियोजन पूर्णतया सफल नहीं हो पाया है। अतः मुल्जिमान कृष्णगोपाल, मुकेश व राकेश को संदेह का लाभ देकर अपराध धारा 419, 420 व 120बी भा.दं.सं. एवं धारा 65, 66 एवं 72 आई.टी. एक्ट के अपराध के आरोपों से दोषमुक्त किया जाना न्यायोचित प्रतीत होता है।”

31. Whereas in the case implicating the petitioner for charges under Sections 147, 323 and 341 IPC although, the trial Court initially convicted the petitioner yet granted benefit of Section 4 of the Probation of Offenders Act, 1958. Resultantly, in view of Section 12 of the Act of 1958, despite there being conviction, the petitioner was absolved from all kind of disqualifications, if any, attached with the conviction. However, even then feeling aggrieved by the conviction the petitioner filed appeal before the Appellate Court. Learned Appellate court while quashing the

conviction and acquitting the petitioner vide judgment dated 13.08.2019, has given the following observations:

“..... इस प्रकार इस गवाह द्वारा अपने पुलिस बयान अंतर्गत धारा 161 द.प्र.सं. से इंकार किया है। इस गवाह के कथनों से यह स्पष्ट नहीं होता है कि सभी अभियुक्तगण एक राय होकर मारपीट के उद्देश्य से आये हो।

इस प्रकार अभियोजन के गवाहों के कथनों में तात्विक विरोधाभास होने से व प्रथम सूचना इत्तला प्रदर्श पी-01 से तात्विक विरोधाभासी कथन किये जाने से व गवाहों के कथनों की ताईद उनके चोट प्रतिवेदन से नहीं होने व अनुसंधान अधिकारी द्वारा ताईद नहीं किये जाने से अभियोजन अपना प्रकरण युक्तियुक्त संदेह से परे साबित करने में असफल रहा है। अतः अपीलार्थीगण/अभियुक्तगण की ओर से प्रस्तुत अपील स्वीकार की जाकर अधीनस्थ न्यायालय द्वारा पारित आक्षेपित निर्णय एवं दण्डादेश अपास्त करते हुए अपीलार्थीगण/अभियुक्तगण को अपराध अंतर्गत धारा 147, 341 व 323 भारतीय दंड संहिता में संदेह का लाभ देते हुए दोषमुक्त किया जाना न्यायसंगत प्रतीत होता है।”

32. Bare perusal of the above observations in the context of the instant case, it would be clear that before arriving at the conclusion to acquit the Petitioner, the competent Courts have discussed the evidence in detail and thereafter, found the same not sufficient to hold the petitioner guilty of the charges levelled against him. Hence, such judgments are well considered and based upon meticulous analysis of evidence. Hence, decision to acquit on the basis of such sound findings cannot be weighed lightly so as to deny removal of blot attached to the initial accusations.

33. It would be relevant to refer that in the case of **Inspector General of Police Vs. S. Samuthiran, 2013(1) SCC 598**, Hon'ble Supreme Court has held as under:-

*"24.....When the accused is acquitted after full consideration of prosecution evidence and that the prosecution had miserably failed to prove the charges levelled against the accused, it can possibly be said that the accused was honourably acquitted."*

34. Furthermore, the respondents have failed to demonstrate the existence of any additional compelling or discernible material suggesting that the petitioner was involved in acts amounting to moral turpitude or deliberate criminality. The decision to brand the petitioner unsuitable appears to be based not on any evidence of unfitness, but on a generalized apprehension.

35. It is settled proposition of law that the presumption of innocence is a foundational principle of criminal jurisprudence. This presumption, once crystallized through acquittal, must be given full legal effect unless explicitly rebutted. A “benefit of doubt” acquittal does not create lingering suspicion for guilt, rather it is a legal declaration that the prosecution has failed to discharge its burden.

36. The Hon’ble Supreme Court in **Avtar Singh Vs. Union of India, (2016) 8 SCC 471**, recognized that while employers may assess the antecedents of a candidate, yet such discretion must be judicious, not mechanical.

37. In the instant case, the Bank has not alleged any suppression of material facts by the petitioner. Pendency of criminal cases was admittedly disclosed at the time of application. Moreover, there is no suggestion that the acquittal was vitiated or that it was based on dubious grounds. The judgment of acquittal does not indicate any finding suggestive of moral turpitude or deliberate wrongdoing by the petitioner.

38. The invocation of “unsuitability” in such a situation becomes problematic. The concept of suitability must be backed by

objective parameters and must not be used as a tool for arbitrary exclusion. The mere use of the phrase "not honourably acquitted" cannot become a device to defeat a person's chance at livelihood, particularly when the criminal process has not held him guilty.

39. This Court is also mindful of the fact that employment in a bank, though requiring integrity, cannot be regulated by an unreasoned apprehension that casts indefinite suspicion. If every person acquitted on benefit of doubt is deemed forever unsuitable, the criminal process itself becomes a punishment rather than a judicial arrangement for fair adjudication. It must be underscored that employment in a public sector bank, though imbued with fiduciary trust, cannot be governed by speculative apprehensions or moralistic assumptions, but by constitutional discipline and underlying principles of reasonableness. An acquitted person is presumed innocent in the eyes of law and therefore, cannot be made to suffer only on account of shadow casted upon him due to initial allegations, which were never proved against him.

40. In the case of **Neeraj Kanwar Vs. State of Rajasthan and others (SB Civil Writ Petition No. 9517/2024 decided on 27.03.2025)** this court has commented as under:

*"31. Even otherwise, one ought to be mindful that the youth need a reformatory approach to the indiscretions committed in heat of the moment, which may or may not be intentional. Societal and so should the legal perspective be, of course depending upon the nature of delinquency, that youthful indiscretions should not permanently tarnish an individual's future. A compassionate and reformatory approach ought to be adopted when dealing with young individuals who may have committed minor transgressions. Young people are still in the process of emotional and intellectual development."*

41. Further, the right to be considered for public employment is a constitutional entitlement under Articles 14 and 16. The respondent-Bank, being a State instrumentality under Article 12, must act within the contours of constitutional discipline. Decisions affecting the life and livelihood of a citizen cannot rest on vague moral judgments or the employer's uncanalized discretion.

42. In summation, the Court finds that the petitioner's rejection by the respondent-Bank suffers from the vice of arbitrariness and non-application of mind. The decision appears to be predicated on a mechanical invocation of the phrase "benefit of doubt", without any corroborative material suggesting that the petitioner poses a threat to the integrity of the institution.

43. Accordingly, the writ petition stands allowed and the impugned communication/order denying appointment to the petitioner is hereby quashed. The respondent-Bank is directed to process the petitioner's appointment, subject to verification of other formalities, within a period of 2 months from the date of receipt of certified copy of this order.

(ANAND SHARMA),J